

(b) *Applications for relief.* Fees for applications for relief are not collected by the Board, but instead are paid to the Department of Homeland Security in accordance with 8 CFR 103.7. When a motion before the Board is based upon an application for relief, only the fee for the motion to reopen shall be paid to the Board, and payment of the fee for the application for relief shall not accompany the motion. If the motion is granted and proceedings are remanded to the immigration judge, the application fee shall be paid in the manner specified in 8 CFR 1003.24(c)(1).

[69 FR 44906, July 28, 2004]

### Subpart B—Office of the Chief Immigration Judge

SOURCE: 62 FR 10331, Mar. 6, 1997, unless otherwise noted.

#### § 1003.9 Office of the Chief Immigration Judge.

(a) *Organization.* Within the Executive Office for Immigration Review, there shall be an Office of the Chief Immigration Judge (OCIJ), consisting of the Chief Immigration Judge, the immigration judges, and such other staff as the Director deems necessary. The Attorney General shall appoint the Chief Immigration Judge. The Director may designate immigration judges to serve as Deputy and Assistant Chief Immigration Judges as may be necessary to assist the Chief Immigration Judge in the management of the OCIJ.

(b) *Powers of the Chief Immigration Judge.* Subject to the supervision of the Director, the Chief Immigration Judge shall be responsible for the supervision, direction, and scheduling of the immigration judges in the conduct of the hearings and duties assigned to them. The Chief Immigration Judge shall have the authority to:

(1) Issue operational instructions and policy, including procedural instructions regarding the implementation of new statutory or regulatory authorities;

(2) Provide for appropriate training of the immigration judges and other OCIJ staff on the conduct of their powers and duties;

(3) Direct the conduct of all employees assigned to OCIJ to ensure the efficient disposition of all pending cases, including the power, in his discretion, to set priorities or time frames for the resolution of cases, to direct that the adjudication of certain cases be deferred, to regulate the assignment of immigration judges to cases, and otherwise to manage the docket of matters to be decided by the immigration judges;

(4) Evaluate the performance of the Immigration Courts and other OCIJ activities by making appropriate reports and inspections, and take corrective action where needed;

(5) Adjudicate cases as an immigration judge; and

(6) Exercise such other authorities as the Director may provide.

(c) *Limit on the Authority of the Chief Immigration Judge.* The Chief Immigration Judge shall have no authority to direct the result of an adjudication assigned to another immigration judge, provided, however, that nothing in this part shall be construed to limit the authority of the Chief Immigration Judge in paragraph (b) of this section.

(d) *Immigration Court.* The term Immigration Court shall refer to the local sites of the OCIJ where proceedings are held before immigration judges and where the records of those proceedings are created and maintained.

[72 FR 53677, Sept. 20, 2007]

#### § 1003.10 Immigration judges.

(a) *Appointment.* The immigration judges are attorneys whom the Attorney General appoints as administrative judges within the Office of the Chief Immigration Judge to conduct specified classes of proceedings, including hearings under section 240 of the Act. Immigration judges shall act as the Attorney General's delegates in the cases that come before them.

(b) *Powers and duties.* In conducting hearings under section 240 of the Act and such other proceedings the Attorney General may assign to them, immigration judges shall exercise the powers and duties delegated to them by the Act and by the Attorney General through regulation. In deciding the individual cases before them, and subject to the applicable governing standards,

immigration judges shall exercise their independent judgment and discretion and may take any action consistent with their authorities under the Act and regulations that is appropriate and necessary for the disposition of such cases. Immigration judges shall administer oaths, receive evidence, and interrogate, examine, and cross-examine aliens and any witnesses. Subject to §§ 1003.35 and 1287.4 of this chapter, they may issue administrative subpoenas for the attendance of witnesses and the presentation of evidence. In all cases, immigration judges shall seek to resolve the questions before them in a timely and impartial manner consistent with the Act and regulations.

(c) *Review.* Decisions of immigration judges are subject to review by the Board of Immigration Appeals in any case in which the Board has jurisdiction as provided in 8 CFR 1003.1.

(d) *Governing standards.* Immigration judges shall be governed by the provisions and limitations prescribed by the Act and this chapter, by the decisions of the Board, and by the Attorney General (through review of a decision of the Board, by written order, or by determination and ruling pursuant to section 103 of the Act).

[72 FR 53677, Sept. 20, 2007]

#### § 1003.11 Administrative control Immigration Courts.

An administrative control Immigration Court is one that creates and maintains Records of Proceedings for Immigration Courts within an assigned geographical area. All documents and correspondence pertaining to a Record of Proceeding shall be filed with the Immigration Court having administrative control over that Record of Proceeding and shall not be filed with any other Immigration Court. A list of the administrative control Immigration Courts with their assigned geographical areas will be made available to the public at any Immigration Court.

### Subpart C—Immigration Court— Rules of Procedure

#### § 1003.12 Scope of rules.

These rules are promulgated to assist in the expeditious, fair, and proper resolution of matters coming before Immigration Judges. Except where specifically stated, the rules in this subpart apply to matters before Immigration Judges, including, but not limited to, deportation, exclusion, removal, bond, rescission, departure control, asylum proceedings, and disciplinary proceedings under this part 3. The sole procedures for review of credible fear determinations by Immigration Judges are provided for in § 1003.42.

[57 FR 11571, Apr. 6, 1992, as amended at 62 FR 10331, Mar. 6, 1997; 65 FR 39526, June 27, 2000]

#### § 1003.13 Definitions.

As used in this subpart:

*Administrative control* means custodial responsibility for the Record of Proceeding as specified in § 1003.11.

*Charging document* means the written instrument which initiates a proceeding before an Immigration Judge. For proceedings initiated prior to April 1, 1997, these documents include an Order to Show Cause, a Notice to Applicant for Admission Detained for Hearing before Immigration Judge, and a Notice of Intention to Rescind and Request for Hearing by Alien. For proceedings initiated after April 1, 1997, these documents include a Notice to Appear, a Notice of Referral to Immigration Judge, and a Notice of Intention to Rescind and Request for Hearing by Alien.

*Filing* means the actual receipt of a document by the appropriate Immigration Court.

*Service* means physically presenting or mailing a document to the appropriate party or parties; except that an Order to Show Cause or Notice of Deportation Hearing shall be served in person to the alien, or by certified mail to the alien or the alien's attorney and a Notice to Appear or Notice of Removal Hearing shall be served to the alien in person, or if personal service is